

**Programmatic Agreement
Among
The Federal Energy Regulatory Commission;
The Pennsylvania, West Virginia, Virginia and North Carolina State Historic
Preservation Officers;
The National Park Service;
The U.S. Department of Agriculture, Forest Service;
And
The Advisory Council on Historic Preservation
For
The Atlantic Coast Pipeline Project
And
The Supply Header Project
Docket Nos. CP15-554-000 and
CP15-555-000**

WHEREAS, Atlantic Coast Pipeline, LLC (Atlantic) and Dominion Energy Transmission, Inc. (Dominion) propose to construct the Atlantic Coast Pipeline Project, Docket No. CP15-554-000 and the associated Supply Header Project, Docket No. CP15-555-000 (collectively, “Project” or “the Project”), located in the States of Pennsylvania, West Virginia, Virginia, and North Carolina, and have applied to the Federal Energy Regulatory Commission (FERC) for a Certificate of Public Convenience and Necessity under Section 7 of the Natural Gas Act (18 CFR Part 157) (15 USC 717), making the Project an undertaking for which FERC must comply with Section 106 of the National Historic Preservation Act (NHPA), 54 USC 306108, and its implementing regulations, “Protection of Historic Properties” (36 CFR 800); and

WHEREAS, the Atlantic Coast Pipeline Project (ACP), consists of approximately 604 miles of new interstate pipeline and related facilities extending from Harrison County, West Virginia to the eastern portions of Virginia and North Carolina; and 130,345 horsepower of new compression. The ACP extends from West Virginia, southeast to Greensville County, Virginia, then splits into two legs; one leg extending east to the City of Chesapeake, Virginia, and the other leg extending southwest into North Carolina. The Supply Header Project (SHP) consists of approximately 38 miles of pipeline looping facilities and other facility upgrades and modifications to Dominion’s existing system in Pennsylvania and West Virginia. All Project facilities are detailed in the final Environmental Impact Statement (EIS) issued by the FERC on July 21, 2017; and

WHEREAS, the U.S. Department of Agriculture--Forest Service, (FS) as authorized by the Mineral Leasing Act of 1920, as amended, and the Federal Land Policy and Management Act of 1976, has decided it will issue a Special Use Permit for the

George Washington National Forest and the Monongahela National Forest as authorized by 36 CFR 251, Subpart B making the ACP an undertaking. The FS is a signatory to this agreement. The FS has reviewed this undertaking per Section 106 of the NHPA and made a finding of no adverse effect to eligible historic properties on National Forest System lands, and the FERC staff concurs; and

WHEREAS, the National Park Service (NPS), as authorized by 16 USC 460a-8 has issued a Right-of-Way Permit on December 12, 2017, for the crossing of the Blue Ridge Parkway and the Appalachian National Scenic Trail as authorized by 36 CFR 14, making the ACP an undertaking. The NPS is a signatory to this agreement. The NPS has made a finding of no adverse effect regarding the portion of the undertaking subject to its Right-of-Way Permit, and the FERC staff concurs; and

WHEREAS, the U.S. Army Corps of Engineers, Norfolk and Wilmington Districts, (Corps) administer a Department of the Army permit program under the authority of the Rivers and Harbors Act of 1899, Section 10 (33 USC 401 and 403), and the Clean Water Act of 1973, Section 404 (33 USC 1344), and the Corps has determined that portions of the Project involving fill in waters of the United States, which constitute an undertaking pursuant to Section 106 of the NHPA and has appointed FERC as the lead federal agency pursuant to 36 CFR 800.2(a)(2) and has been invited to concur in this agreement; and

WHEREAS, the NPS, FS and the Corps intend to designate FERC as the lead agency for compliance with Section 106 pursuant to 36 CFR 800.2(a)(2); and

WHEREAS, the Nelson County Board of Supervisors (Nelson County) is a consulting party under the Section 106 process as requested in its September 8, 2015 resolution (Resolution R2015-69) to the FERC and has been invited to concur in this agreement; and

WHEREAS, the Augusta County Board of Supervisors (Augusta County) is a consulting party under the Section 106 process as requested in its November 21, 2017 letter to the FERC and has been invited to concur in this agreement; and

WHEREAS, by its letter dated October 25, 2017, the FERC determined that construction of the Project would have an adverse effect on properties eligible for listing in the National Register of Historic Places (NRHP) and has consulted with the Pennsylvania, West Virginia, Virginia, and North Carolina State Historic Preservation Officers (SHPO), FS, and the Advisory Council on Historic Preservation (AChP) pursuant to 36 CFR 800.14, regulations implementing Section 106 of the NHPA (36 CFR 800, 54 USC 306108, as amended); and

WHEREAS, because the undertaking is a complex multi-state Project, where effects on historic properties cannot be fully determined prior to approval of the undertaking by all federal permitting agencies, the FERC is using this Programmatic Agreement (PA) to resolve adverse effects on affected historic properties in accordance with 36 CFR 800.14(b)(3); and

WHEREAS, in consultation with the Pennsylvania, West Virginia, Virginia, and North Carolina SHPOs, FERC staff has delineated the Area of Potential Effects (APE) as a 300-foot-wide survey corridor for direct effects for the pipeline right-of-way, expanded where necessary to include extra workspaces, storage and staging areas, and aboveground facilities; and for historic architectural sites the APE includes the APE for direct effects plus additional surrounding areas within view of new construction or changes to the landscape, as described in the final EIS issued by the FERC on July 21, 2017; and

WHEREAS, cultural resources surveys have been conducted for the majority of the APE of the Project; however, not all identification and evaluation tasks have been completed; and

WHEREAS, identification efforts that still need to be completed include the survey of 1.4 percent of the ACP corridor and 1.3 percent of the SHP corridor where landowner access has been denied; and

WHEREAS, Atlantic, Dominion, and the FERC staff contacted and consulted with 15 federally recognized Indian tribes: the Absentee-Shawnee Tribe of Oklahoma, Catawba Indian Nation, Cherokee Nation, Delaware Tribe of Indians, Delaware Nation, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Pamunkey Tribe of Virginia, Seneca Nations of Indians, Seneca-Cayuga Tribe of Oklahoma, Shawnee Tribe, Stockbridge Munsee Community, Tonawanda Band of Seneca Indians, Tuscarora Nation, and the United Keetoowah Band of Cherokee Indians that may attach religious or cultural importance to historic properties that may be affected by the undertaking, requested their comments on the Project, and received no comments on the reports provided or identified any sites of historic or religious significance to the tribes; and

WHEREAS, no human remains, funerary objects, sacred objects, or objects of cultural patrimony, as defined in the Native American Graves Protection and Repatriation Act (25 USC 3001), are expected to be encountered during archaeological data recovery or construction, and any such discoveries encountered during construction shall be governed by the attached Unanticipated Discoveries Plan (Appendix D) which has been reviewed by the SHPOs, interested Indian tribes, and the FERC staff; and

WHEREAS, pursuant to 36 CFR 800.6(a)(1)(iii) on December 14, 2016, the ACHP indicated that it would formally enter the Section 106 consultation for this

undertaking and participate in the development of the resolution for the adverse effects; and

WHEREAS, FERC issued a Notice of Intent to Prepare an Environmental Impact Statement (NOI), two supplemental NOIs, which were sent to 6,613 entities including federal, state and local government representatives and agencies; elected officials; environmental and public interest groups; Indian Tribes and Native American groups (including 11 non-federally recognized tribes in Virginia and North Carolina); potentially affected landowners; other interested individuals and entities; and local libraries and newspapers; held 10 scoping meetings; issued a draft EIS sent to 9,694 entities, held 10 comment meetings on the draft EIS, and issued a final EIS in order to keep the public apprised about the progress of the Section 106 consultation and provide members of the public the opportunity to comment; and

WHEREAS, Atlantic and Dominion, the project proponents, have been responsible for sponsoring the inventory surveys to identify historic properties in the APE of the undertaking and will have responsibilities for carrying out steps to resolve adverse effects as set forth in this PA and, have been invited to participate in consultation and concur in this agreement; and

WHEREAS, FERC, as lead agency, has determined that the undertaking will have an adverse effect on historic properties in the APE, as listed in Appendices A, B and C; and

WHEREAS, the FERC issued *Order Issuing Certificates* finding Public Convenience and Necessity (October 13, 2017) for the Project under Section 7 of the Natural Gas Act (18 CFR 157) (15 USC 717) with environmental condition 56 that precludes construction until after any additional required surveys and evaluations are completed, survey and evaluation reports have been reviewed by the appropriate consulting parties, the ACHP has had an opportunity to comment, and the FERC's Director of the Office of Energy Projects provides written notification to proceed; and

WHEREAS, the term "construction" includes ground preparation, all construction activities, creation and use of staging areas, and clearing of trees and vegetation; and

WHEREAS, unless otherwise defined in this PA, all terms are used in accordance with 36 CFR 800.16; and

NOW, THEREFORE, the FERC, the ACHP, the Pennsylvania, West Virginia, Virginia, and North Carolina SHPOs, the NPS (for its lands) and the FS (for its lands) agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties, and to satisfy federal agency responsibilities under Section 106 of the NHPA.

Stipulations

The FERC shall ensure that the following measures are carried out.

I. Standards

A. All identification and evaluation studies and treatment plans will be carried out by or under the direct supervision of a cultural resources professional(s) who meet, at a minimum, the Secretary of the Interior's "Qualifications Standards" for Archeology and Historic Preservation (48 Federal Register 44738-9, September 29, 1983).

B. All identification and evaluation studies, treatment plans and the resulting reports shall be consistent with each SHPO's state guidelines, the Secretary of the Interior's "Standards and Guidelines" (48 Federal Register 44716-42, September 29, 1983), the ACHP's publication, "Treatment of Archaeological Properties," and the FERC's Office of Energy Projects' "Guidelines for Reporting on Cultural Resources Investigations for Natural Gas Projects" (July 2017).

C. Atlantic and Dominion, after consulting with the FERC, the SHPOs, the FS, and the NPS, and the consulting parties, will curate all materials and records resulting from the implementation of identification and evaluation studies and treatment plans conducted for the Project. Curation will be consistent with 36 CFR 79 "Curation of Federally-Owned and Administered Archeological Collections." After analysis and documentation, these materials will be deposited in a repository approved by the SHPOs unless the landowner will not relinquish control. All artifacts excavated from federal lands remain the property of the federal land manager. Atlantic will consult with the applicable land manager regarding curation requirements for materials from federal lands. Atlantic and Dominion will provide written documentation to the FERC and the SHPOs and consulting parties that the landowner will not relinquish control through donation. In the event that the landowner will not relinquish control of materials, extra documentation (e.g., additional photography, more detailed measurements) may be requested.

D. Atlantic and Dominion have prepared plans, in consultation with the SHPOs, the FS, and the NPS, that have been approved by the FERC, and are filed with the FERC in these Dockets, that identify the procedures to be followed if human remains, unanticipated historic properties, or unanticipated effects to previously identified historic properties are discovered during identification or evaluation studies, data recovery, or construction (see Appendix D). These plans were prepared in accordance with 36 CFR 800.13. The Native American Graves Protection and Repatriation Act (P.L. 101-601;

104.3048) applies for federal and tribal lands, and applicable state laws for state and private lands.

II. Identification of Historic Properties and Assessment of Effects

A. In consultation with the SHPOs, the FS, the NPS, and the consulting parties, the FERC staff will identify and evaluate historic properties, including traditional cultural properties, in terms of the NRHP criteria (36 CFR 60.4) within the Project's APE which has been defined by the FERC staff. The FS and NPS will be responsible for determinations of eligibility and effect on their lands. The FERC staff will base its decisions on eligibility and effect on documentation provided by Atlantic, Dominion, and other available information, which is acceptable to the FERC, the FS, the NPS, and the SHPOs.

1. Atlantic and Dominion shall submit documentation to the FERC, the FS, NPS, the SHPOs, consulting Indian tribes, the ACHP, and all other consulting parties for concurrent review and comment regarding sufficiency of the identification effort and recommended findings of eligibility and effect. The SHPOs, FS, NPS, consulting Indian tribes, and other consulting parties will have 30 days from receipt to provide comments on the sufficiency of the identification effort and recommended findings of eligibility and effect to the FERC. Atlantic and Dominion will revise the documentation, as directed by FERC staff following the review period. If the SHPOs, FS, NPS, Indian tribes, or consulting parties do not comment within 30 days, the FERC may proceed.

2. If the FERC, FS, NPS, and the SHPOs cannot agree on the eligibility of a property, or if the ACHP or the Secretary of the Interior so request, the FERC staff shall seek a formal determination from the Keeper of the National Register (Keeper), NPS, whose determination shall be final.

3. In the event that any consulting party disagrees in writing within the 30-day review period with a proposed determination of effect, the disagreement will be resolved pursuant to 36 CFR 800.5(c).

4. Following resolution of any disputes, as set forth in Stipulations II. A. 2. and 3., for those properties that the FERC, the FS, the NPS, and the SHPOs agree do not meet the NRHP criteria, no further consideration will be required. Properties that the FERC staff and the SHPOs or the Keeper determine to be listed in or eligible for listing in the NRHP, and which the FERC and the SHPOs agree will be affected by the Project, will be treated in accordance with Stipulation III of this PA.

5. In consultation with the SHPOs, the FS, and the NPS, and assisted by Atlantic and Dominion, the FERC staff will provide interested persons or organizations, including Indian tribes, as identified in 36 CFR 800.16 (m), an opportunity

to provide their views to the FERC regarding the identification and evaluation of historic properties, and the treatment of affected historic properties. Upon request, the FERC staff shall ensure that relevant information on historic properties affected by the Project is provided to interested persons, consistent with Section 304 of the NHPA and the FERC's regulations at 18 CFR 388.107.

B. Changes in Construction Rights-of-Way/Ancillary Areas

1 State and private lands: If Atlantic or Dominion proposes to reroute a portion of the right-of-way or use ancillary areas not previously identified and surveyed, Atlantic or Dominion will survey the areas in accordance with Stipulation I.B of this PA. In cases where the areas to be used are paved or graded/graveled and would not involve ground disturbance, tree clearance or aboveground construction, individual review by the SHPO would not be required. All changes to the construction right-of-way/ancillary areas would still require the review and approval of the FERC.

2 National Forest System lands: If Atlantic or Dominion proposes to reroute a portion of the right-of-way or use ancillary areas not previously identified and surveyed on National Forest System lands, Atlantic or Dominion will survey the areas in consultation with the FS and in accordance with Stipulation I.B of this PA. Atlantic, Dominion or their consultants, will conduct these surveys through authorization of a permit issued pursuant to the Archaeological Resources Protection Act and its implementing regulations at 36 CFR part 296. In cases where the areas to be used are paved or graded/graveled and would not involve ground disturbance, tree clearance or aboveground construction, individual review by the SHPO would not be required. All changes to the construction right-of-way/ancillary areas would still require the review and approval of the FERC.

III. Treatment of Historic Properties

In consultation with the FERC, FS, NPS, the relevant SHPO, ACHP, consulting Indian tribes, and other consulting parties, and considering the comments of any interested individuals or organizations, Atlantic and Dominion shall develop plans to resolve the adverse effects of the Project on historic properties.

A. Avoidance

1. Whenever feasible, avoidance shall be the preferred option. In consultation with the FERC, FS, NPS, SHPOs, ACHP, consulting tribes, and other consulting parties, Atlantic and Dominion will identify means to avoid effects to historic properties. The FERC staff shall determine when and if avoidance is a prudent and feasible option. If avoidance is determined to be the preferred option, Atlantic and

Dominion shall incorporate the avoidance measures into their project implementation plans.

B. Treatment Plans

1. For those historic properties that the FERC staff determines cannot be avoided, Atlantic and Dominion will develop treatment plans to minimize or mitigate the adverse effects, including visual effects for those properties where the viewshed is part of the historic significance, in consultation with the FERC, FS, NPS, SHPOs, consulting tribes, and other consulting parties, and taking into account any comments of any interested parties or other Indian tribes who may ascribe religious and cultural significance to affected properties.

2. Atlantic and Dominion shall submit the treatment plans to the FERC, FS, NPS, SHPOs, ACHP, consulting tribes, and other consulting parties for concurrent review and comment. Atlantic also shall submit the treatment plans for the Warminster Rural Historic District, the Seneca State Forest Historic District, the former West Virginia Pulp and Paper logging railroad, the Rockfish Valley Rural Historic District, and the Wilderness Farm to the landowners/parties which have expressed an interest.

3. The SHPOs, FS, NPS, consulting Indian tribes, ACHP, other consulting parties, and any other interested parties will have 30 days from receipt to provide comments on the treatment plans to the FERC. If the SHPOs, FS, NPS, consulting Indian tribes, ACHP, or other consulting parties do not comment within 30 days, the FERC may proceed, after giving appropriate consideration to any timely comments. Atlantic and Dominion will modify and finalize treatment plans as directed by the FERC. Following the resolution of any disputes in the review process and the receipt of the FERC's approval, Atlantic and Dominion shall implement the treatment plans.

C. Reporting Requirements

1. Atlantic and Dominion shall provide the FERC, FS, NPS, SHPOs, consulting Indian tribes, ACHP, and other consulting parties with a management summary of the treatment implemented within 30 days after implementation of the treatment measures.

2. Atlantic and Dominion shall develop draft reports documenting implementation of each treatment plan within one year after the completion of the treatment plan, and shall submit the draft reports to the FERC, FS, NPS, SHPOs, consulting Indian tribes, ACHP, and other consulting parties for review and comment. The FS, NPS, SHPOs, consulting Indian tribes, ACHP, and other consulting parties will have 90 days from receipt to provide comments on any draft report to the FERC. FERC

staff will take into account any timely comments in directing Atlantic and Dominion to revise and finalize the reports. Atlantic and Dominion will revise the reports as directed by FERC staff.

3. Atlantic and Dominion shall submit copies of all final reports to the FERC, FS, NPS, SHPOs, consulting Indian tribes, ACHP, and other consulting parties who have requested them, and other interested parties as identified by the FERC, FS, NPS, or the SHPOs.

IV. Public Education

Atlantic and Dominion shall make the results of the investigations available to a wide audience in the form of a website, travelling exhibit, display, brochures, or other publications, etc., as appropriate. The specifics of the public education program will be developed in consultation with the FERC, FS, NPS, SHPOs, consulting Indian tribes, ACHP, and other consulting parties and interested parties during the development of the treatment plans.

V. Public Objections

At any time during the implementation of the measures stipulated in this PA, should an objection to any measure or its manner of implementation be raised by a member of the public, FERC staff shall take the objection into account and consult as needed with the objecting party, the SHPOs, and/or the ACHP to address the objection.

VI. Dispute Resolution

Should any Signatory party object at any time to any actions carried out pursuant to this PA, the FERC staff shall consult with the objecting party to resolve the objection. If the FERC staff determines that the objection cannot be resolved, the FERC staff shall forward all documentation relevant to the dispute, including the FERC's proposed resolution, to the ACHP.

A. Within 30 days after receipt of all pertinent documentation, the ACHP shall provide the FERC with its recommendations on the resolution of the objection, which the FERC staff shall take into account in reaching a final decision regarding the dispute.

B. FERC staff shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, and other consulting parties, and provide them with a copy of this written response. FERC staff will then proceed according to its final decision.

C. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FERC staff may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FERC staff shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and consulting parties, and provide them and the ACHP with a copy of such written response.

D. Any recommendation or comment provided by the ACHP will be understood to pertain only to the subject of the dispute. The FERC's responsibility to carry out all actions under this PA that are not subject of the dispute will remain unchanged.

VII. Construction Clearance

For those segments of the Project where the provisions of this PA have been met, the FERC staff, in consultation with the FS, NPS, and SHPOs may provide Atlantic and Dominion with notice to proceed with construction in a manner that will not foreclose the adoption of alternatives for any other portions of the Project. In addition, construction shall not proceed on any portion of the Project until the applicable provisions of this PA, including development (and if appropriate, implementation) of treatment plans to resolve adverse effects have been carried out for that portion.

VIII. Amendment

Any Signatory to this PA may propose to the FERC that it be amended, whereupon FERC staff will circulate a draft amendment to all consulting parties. The parties to this PA will consult to consider such amendment. This PA will be amended when such an amendment is agreed to in writing by all the signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

IX. Duration

This PA will be null and void if its stipulations are not carried out within ten (10) years from the date of its execution. At such time, and prior to work continuing on the undertaking, FERC shall either (a) execute a PA pursuant to 36 CFR 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. Prior to such time, FERC staff may consult with the other signatories to reconsider the terms of the PA and amend its duration in accordance with Stipulation VIII above. FERC staff shall notify the signatories as to the course of action it will pursue.

X. Post-Review Discoveries

If potential historic properties are discovered or unanticipated effects on previously identified historic properties found, FERC staff shall implement the discovery plan included as Attachment B of this PA.

XI. Termination

A. If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

B. Once the PA is terminated, and prior to work continuing on the undertaking, FERC staff must either (a) execute a PA pursuant to 36 CFR 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. FERC staff shall notify the signatories as to the course of action it will pursue.

XII. Scope of Agreement

This PA is limited in scope to actions that will facilitate the construction of the Project and related facilities and is entered into solely for that purpose.

XIII. Coordination with other Federal Reviews

In the event that another federal agency not initially a party to or subject to this PA receives an application for funding/license/permit for the undertaking as described in this PA, that agency may fulfill its Section 106 responsibilities by stating in writing it concurs with the terms of this PA and notifying the FERC, SHPOs, and the ACHP that it intends to do so. Any necessary modifications will be considered in accordance with Stipulation VIII, Amendments.

XIV. Signature in Counterpart

This PA may be executed in counterparts, with a separate page for each signatory. The FERC staff will ensure that each party is provided with a copy of the fully executed PA.

Execution and implementation of this PA evidences that the FERC has satisfied its Section 106 responsibilities for all individual actions of the ACP and SHP and that the FERC has afforded the ACHP an opportunity to comment on the Project and the effects on historic properties.

Federal Energy Regulatory Commission

for By: Sharon R. Jones Date: 1/10/2018
Title: Director, Division of Gas -- Environment and Engineering

Advisory Council on Historic Preservation

for By: Julie L. Cole Date: Jan. 12, 2018
Title: Executive Director

West Virginia Division of Culture and History

By: _____ Date:
Title:

Pennsylvania Historical and Museum Commission

By: _____ Date:
Title:

Virginia Department of Historic Resources

By: _____ Date:
Julie V. Langan, Director

North Carolina Department of Natural and Cultural Resources

By: _____ Date:
Title:

U.S. Department of Agriculture—Forest Service

By: _____ Date:
Title: Regional Forester – Eastern Region

By: _____ Date:
Title: Acting Regional Forester – Southern Region

National Park Service

By: _____ Date:
Title:

CONCUR:

Atlantic Coast Pipeline, LLC

By: _____ Date:
Title:

Dominion Energy Transmission, Inc.

By: _____ Date:
Title:

U.S. Army Corps of Engineers, Norfolk District

By: _____ Date:
Jason E. Kelly, Colonel, U.S. Army, District Commander

Atlantic Coast Pipeline Project
Supply Header Project

Docket Nos. CP15-554-000; CP15-554-001
CP15-555-000

U.S. Army Corps of Engineers, Wilmington District

By: _____ Date:
Robert J. Clark, Colonel, U.S. Army, District Commander

Augusta County Board of Supervisors, Virginia

By: _____ Date:
Title:

Nelson County Board of Supervisors, Virginia

By: _____ Date:
Title: